



General Assembly

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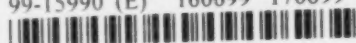
Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

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I. General

1. New Caledonia¹ is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. According to the 1996 census, the population was 196,836, comprising indigenous Melanesians known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). The rate of population growth in 1997 was estimated at 1.68 per cent. About 60 per cent of the population is Catholic, 30 per cent Protestant and 10 per cent other religions. The official language is French, and about 28 Melanesian-Polynesian dialects are spoken.

3. The political and administrative arrangements described in section I in previous working papers have been fundamentally altered as a result of the Nouméa Accord. The new institutional arrangements are described in paragraphs 18–22 below.

II. Economic conditions

A. Employment and inflation

4. In 1998 the rate of inflation was 0.3 per cent, the lowest average annual rate in New Caledonia since 1986.

5. According to information provided by the administering Power, despite a 10.6 per cent drop in employment in the mining and metallurgy sector, the number of people employed increased by 3.9 per cent, due in large part to increased activity in the construction sector. Nonetheless, a structural disequilibrium, both quantitative and qualitative, exists in the labour market. There is only one employment offer for every nine requests for employment, and there is a gap between the skills employers demand and those that job seekers have. The average number of non-satisfied job demands per month in 1998 was 8,321, a 5.2 per cent increase over 1997.

B. Metals and mining

6. New Caledonia's economy is dominated by the nickel industry. The Territory has more than 20 per cent of the world's known nickel resources and is responsible for 6 per cent of the world's nickel output. In recent years the economy has suffered because of a depressed international demand for nickel, the principal source of export earnings.

7. In 1998, nickel sales were negatively affected by the economic crisis in Asia, which provoked a 33 per cent decline in the world price of nickel. The value of New Caledonia's mineral and metallurgic exports fell by 28.7 per cent, to 2.2 billion French francs. Mineral extraction fell 8 per cent compared to 1997. Production of metals, however, rose 3 per cent, to a record of 56,502 tons of nickel.

C. Tourism

8. Tourism is now regarded as the second most important industry. The sector was only marginally affected by the Asian crisis, and the number of tourists visiting in 1998 (103,835) fell only 1.2 per cent against the number that visited in 1997 (105,137). The greatest number of tourists (35,420) came from Japan.

D. Agriculture

9. Only a small portion of land is suitable for cultivation, making agricultural production relatively low; food accounts for 25 per cent of imports.

III. Developments

10. This section describes political and economic developments engendered by the Nouméa Accord of May 1998.

A. Political developments

11. On 5 May 1998, as a result of intensive consultations between the administering Power and the main local parties, the Nouméa Accord was signed, the text of which is reproduced as an annex to the previous working paper on New Caledonia (A/AC.109/2114). Under the terms of this Accord, the Kanak independentists and mostly Melanesian and French-descended integrationists opted for a negotiated

solution rather than an immediate referendum on political status. The Nouméa Accord states:

"The signatories to the Matignon Accords have therefore decided to work together towards a negotiated consensual solution, which they shall together submit to the inhabitants of New Caledonia for a decision.

"This solution will define the political organization of New Caledonia and the arrangements for its emancipation over the next 20 years.

"Its implementation will require a constitutional law, which the Government undertakes to draft with a view to its adoption by Parliament.

"The full recognition of the Kanak identity involves clarifying customary law status and its relationship to the civil law status of persons under ordinary law, defining the place of customary structures in institutions, *inter alia*, by establishing a customary Senate, protecting and enhancing the Kanak cultural heritage, introducing new legal and financial mechanisms to meet the demands that have been expressed on the grounds of ties to the land, while promoting land development, and adopting identity symbols expressing the essential place of the Kanak identity within the future community agreed upon.

"The institutions of New Caledonia shall carry out the new stage of the transition to sovereignty; some of the decisions of the Territorial Congress shall have the force of law, and an elected territorial executive shall prepare and implement them.

"During this period, indications shall be given of the progressive recognition of a citizenship of New Caledonia, which must reflect the common destiny chosen and which may become, at the end of the period, a nationality, should it be so decided.

"The electorate for elections to local assemblies in New Caledonia shall be restricted to persons who have been resident in the Territory for a certain period of time.

"In order to take into account the limited size of the labour market, provisions shall be made to promote access to local employment for persons who have been long-established residents of New Caledonia.

"The sharing of powers between the State and New Caledonia shall signify shared sovereignty. This shall be a gradual process. Some powers shall be transferred as soon as the new organization takes

effect. Other powers shall be transferred according to a definite schedule, which the Congress may modify, in accordance with the principle of self-organization. The powers that have been transferred may not revert to the State, in accordance with the principle of the irreversibility of the new organization.

"Throughout the period of implementation of the new organization, New Caledonia shall receive State aid in the form of technical assistance and training and the funding necessary for the exercise of the powers transferred and for economic and social development.

"Commitments shall be applied to multi-year programmes. New Caledonia shall have a share in the capital or the functioning of the primary development tools in which the State is a participant.

"At the end of the 20-year period, the transfer of sovereign powers to New Caledonia, its access to the international status of full responsibility and the organization of citizenship by nationality shall be put to a vote of the populations concerned.

"Their approval would be equivalent to full sovereignty for New Caledonia."

12. On 6 July 1998, the French Parliament passed a constitutional reform by 287 votes to 10 that inserted two articles, 76 and 77, into the French Constitution. Article 76 called upon the people of New Caledonia to endorse the Accord in a referendum held before the end of the year, and defined the electorate eligible to participate in that referendum. Article 77 asserted that, pending popular approval of the Accord, the Government of France would begin transferring powers to the local Government as described in the Nouméa Accord.

13. Prior to the referendum, the two major parties of New Caledonia, the independentist Front de libération nationale kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR), both campaigned for approval of the Accord among their respective constituents.

14. The Accord was ratified by New Caledonians in a referendum held on 8 November 1998. With 74 per cent of the electorate voting, 72 per cent voted in favour of the Accord. The participation rate was 10 per cent higher than in the 6 November 1988 referendum that ratified the Matignon Accords.

15. In the North Province and the Loyalty Islands, both of which are controlled by independentists, the percentage in favour of the Accord was 86.8 per cent and 95.5 per cent respectively. In the South Province, which is mostly

integrationist, the Accord was ratified by 63 per cent of the population.

16. Following the referendum, the Secrétariat d'État à l'Outre-Mer of the French Government issued the following communiqué:

"The voters of New Caledonia have just approved the Nouméa Accord of 5 May 1998 by a large majority.

"Voter turnout (74.24 per cent) was significantly higher than it had been for the referendum of 1988, which demonstrates the New Caledonians' interest in this referendum affecting their future.

"The 'yes' option scored a clear victory, garnering 71.87 per cent of the votes cast, compared with 57 per cent in 1988. The increase was significant in Nouméa and its surrounding communes, where the majority had voted 'no' ten years ago.

"This result reflects support for the consensual solution which the Government has implemented with its the Caledonian partners: RPCR and FLNKS.

"I commend, in particular, Jacques Lafleur and Roch Wamytan, who, with great perspicacity and courage, were able to reconcile their points of view. I pay tribute, with emotion, to the memory of Jean-Marie Tjibao and the historic role he played in the recognition of the Kanak identity and the reconciliation of the communities. After ten years of civil peace, institutional stability and development, New Caledonia is looking resolutely towards its future.

"The Nouméa Accord provides for the renewal of relations between France and New Caledonia. It will translate into the draft organic law now being prepared, which should be submitted to the Council of Ministers in late November.

"I am proud to have contributed, on behalf of the Government of Lionel Jospin, to the elaboration of this Accord, which enables all New Caledonians to share a common destiny.

"I congratulate those who worked towards this success, particularly the RPCR and FLNKS leaders, who were able to unite around a common project. They will have to implement the Nouméa Accord with the help of all sectors of Caledonian society.

"The solution of wisdom and hope which has just carried the day opens up prospects of peace and progress for New Caledonia."

17. An organic law and an ordinary law pertaining to New Caledonia were presented in the French Parliament. The organic law codifies the matters addressed in clause 77 of the constitutional reform, namely, the powers that would be transferred to the newly created institutions in New Caledonia, the organization of those institutions, rules concerning New Caledonian citizenship and the electoral regime and conditions and deadlines by which New Caledonians would determine their accession to full sovereignty. The ordinary law deals with other, mainly social and economic, matters covered in the Nouméa Accord. The French Legislature ratified both laws on 19 March 1999.

18. The governmental structure created as a result of the entry into force of the above-mentioned organic law is set out below.

19. The Congress is the deliberative assembly of New Caledonia. It contains 54 members, composed of 7 from the Provincial Assembly of the Loyalty Islands, 15 from the Provincial Assembly of the North Province and 32 from the Provincial Assembly of the South Province. Members are elected for five years. Those eligible to vote must satisfy one of the following conditions: (a) eligibility to vote in the referendum of 8 November 1998; (b) residence in New Caledonia for at least 10 years on the date of the election; and (c) be 18 years of age by 31 October 1998 and have either 10 year residence in New Caledonia or have at least one parent that satisfies condition (b).

20. The Government is the executive of New Caledonia. It is elected by the Congress and responsible to it. It is composed of between 5 and 11 members, the exact number to be fixed by Congress prior to the election of the Government. The Government prepares and executes the decisions of Congress. The Government names public and administrative officers, oversees the execution of public works, manages local resources, gives its opinion regarding projects that involve the mines in the Territory and prepares the codification of the Territory's laws. As the executive, the Government replaces the institution of the High French Commissioner for New Caledonia, which will cease to exist.

21. The provincial assemblies are responsible for all matters relating to the province that are not directly attributed to the President of the Provincial Assembly. The President of the Provincial Assembly acts as the executive of the province, and as such is responsible for the administration of the province and the management of public employment at the provincial level. Members of the Assembly are elected for five years by an electorate, subject to the same conditions as that of the Congress (see para. 19 above).

22. An Economic and Social Council will be created to advise the Government on projects and possible laws that have an economic or social character. It will comprise 28 representatives of professional, labour and cultural organizations, 2 members to be designated by the Customary Senate and 9 personalities that are representative of the economic, social and cultural life of New Caledonia are to be designated by the Government on the advice of the provincial assemblies.

23. A parallel set of institutions is to be created in the eight areas that are designated as "customary". These institutions are designed to accommodate the full political recognition of the Kanak identity. The role of the customary areas is to be enhanced by the revision of their current uncertain legal status and by the creation of customary institutions endowed with powers at the local and national levels. In particular, a Customary Council will be created in each customary area. Its precise composition will be fixed by traditions proper to the area. In addition, a Territory-wide Customary Senate will be created, comprising 16 members — 2 selected by each of the 8 customary councils. The Customary Senate will be represented in the Economic and Social Council, the Administrative Council, the Consultative Council on Mines and local development agencies. The Customary Senate and the councils are to be consulted by the executive and legislative organs of New Caledonia on matters that have to do directly with the Kanak identity.

24. Given the ratification of the Accord by the people of New Caledonia and the codification of its provisions into French law, its implementation will proceed according to the following timetable. Elections were held on 9 May 1999 for the provincial assemblies and the Congress. The new assemblies and Congress were to be in place by 14 May. The Government will be elected by 18 June 1999. The customary councils and the Customary Senate will be designated by 28 August. The first meeting of the provincial assemblies will take place by 14 August.

B. Economic developments

25. It will be recalled (A/AC.109/2114, para. 8) that a precondition for the talks that led to the Nouméa Accord was the exchange of nickel reserves from the French State-owned company, Eramet, to the Kanak-controlled Société minière du Sud Pacifique (SMSP). This transfer permitted SMSP to go ahead with the construction of a smelter in a joint venture with the Canadian company Falconbridge.

26. Subsequent to this transfer, the office of the Prime Minister of France issued the following communiqué:

"A Memorandum of Understanding has just been signed at the Ministry of Economic Affairs, Finance and Industry between the State, Société Minière du Sud Pacifique (SMSP) and the SLN-Eramet group concerning the conditions for the exchange of mining rights in the Poum and Koniambo massifs in New Caledonia, with a view to the construction of a nickel smelter in the northern part of the Territory. The construction will be directed by SMSP in a joint venture with the Falconbridge company, which has signed the Memorandum of Understanding.

"As promised, the Government expedited action on this matter, which was not settled until last June.

"In the initial phase, Mr. Philippe Essig, who was in charge of a preliminary government study, outlined the principles of a memorandum, particularly a proposal to establish an autonomous entity that would receive the rights to the massifs and retain them for the required period of time before it was decided to construct a smelter.

"The draft Memorandum, whose general thrust had already been approved last December, was finalized in a few weeks, as expected.

"The Memorandum was signed thanks to the parties' sense of responsibility and will pave the way for the construction of the smelter in North Province, which will be a decisive step towards restoring economic balance and protecting the interests of SLN, a key force in economic life and a major employer in New Caledonia.

"The Government hopes that discussions on the Territory's institutional future will now begin and, to that end, will contact the partners in the Matignon Accords."

27. In February 1999, one year later, the Government of France announced the privatization of Eramet. At the same time, Eramet announced its acquisition of SIMA, an important producer of steel and nickel alloys. The acquisition of SIMA, part of a long-term development strategy, strengthens the position of the company within its sector. Under the privatization agreement, 30 per cent of Eramet's New Caledonian nickel unit (SLN) will be transferred to a public company representing New Caledonia's investment institutions. As a result, the Territory will own about 8 per cent of the newly privatized Eramet. In this way, the New Caledonians will be shareholders in the management of their most important source of wealth. This

agreement constitutes the implementation of a first phase of the economic provisions of the Nouméa Accord (sect. 4).

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

28. The Special Committee considered the question of New Caledonia at its 1493rd, 1495th and 1496th meetings, between 7 and 13 July 1998. In accordance with a decision taken at the 1493rd meeting, Roch Wamytan, of FLNKS, made a statement at the 1495th meeting of the Special Committee, on 10 July. At the same meeting statements were made by the representatives of China, Côte d'Ivoire, Fiji, Papua New Guinea and the Syrian Arab Republic. At that meeting a statement was also made by France, the administering Power.

29. The representative of France said that in the spirit of transparency his country had striven to disseminate the fullest possible information on the situation in New Caledonia. The act of taking the floor during the current session reflected the important development that had taken place, namely the Nouméa Accord.

30. He said the situation was satisfactory to all parties, and the Accord reflected a consensus that was a product of reconciliation. It also represented a greater recognition of the Kanak identity in New Caledonia, established a shared sovereignty and provided for a significant phased transfer of power. Further, it enabled the Kanaks to exercise certain jurisdiction in international and regional affairs. The Accord also provided for a system of elections. Moreover, a new constitutional law made it possible to approve the Accord next November. Through informal contacts between the parties during the year, it had been possible to craft consensus amendments to the draft, which, it was hoped, would receive the Committee's support.

31. At the 1496th meeting, on 13 July, the representatives of Fiji and Papua New Guinea introduced a draft resolution (A/AC.109/L.1878/Rev.1). The Special Committee adopted the draft resolution without a vote (A/AC.109/2127).

B. Special Political and Decolonization Committee (Fourth Committee)

32. At its fourth meeting, on 7 October 1998, the Special Political and Decolonization Committee (Fourth Committee) heard a statement by Roch Wamytan, president of FLNKS (A/C.4/53/SR.4).

33. Mr. Wamytan said that each time his people had embarked upon the struggle to secure its lost freedom, it had been subjected to repression of various kinds, which had redoubled with the implementation of a deliberate immigration policy. The struggle had lasted until 1988, when the Government of France, RPCR and FLNKS signed the Matignon Accords. Under those Accords, FLNKS had entered a reservation regarding the entitlement to vote on the question of self-determination in 1998. It was evident that as a result of the settlement policy carried out by successive French Governments since the 1970s, the Kanak people found themselves to be in a minority on the electoral list. Despite continuous appeals by FLNKS for France to implement the United Nations resolution on the question of immigration in Trust Territories, an additional 20,000 people had arrived in New Caledonia between 1988 and 1997.

34. In view of that fact, it was logical to arrive at the conclusion that holding a referendum in 1998 on the question of self-determination would merely lead to a new increase in tension and a socio-political explosion. Accordingly, FLNKS and its two partners in the talks had decided to discuss the possibilities for finding a way out of the situation that had arisen in 1998. FLNKS had elaborated a framework project for the creation of a State in association with France, which was the only constitutional possibility of taking into account the lawful nature of the interests of the Kanak people and their inalienable right to independence and the lawfulness of the interest of the other communities, which had become the victims of history. The talks had resulted in the Nouméa Accord. The opportunity those agreements provided for preparing New Caledonia for the attainment of independence was one that was not to be missed. In that connection, it was envisaged that the United Nations was to be kept apprised of the progress made towards the attainment of freedom.

35. The process laid down in the Nouméa Accord went beyond 2000, which was to be the final year of the International Decade for the Eradication of Colonialism. It was important for the United Nations to continue its efforts to secure the decolonization process in New Caledonia initiated by the Matignon Accords within the framework of the Nouméa Accord which established the conditions in

which New Caledonia, under the aegis of the United Nations, could gradually attain full sovereignty. The United Nations must be vigilant in monitoring the implementation of the Nouméa Accord, while at the same time, France must meet its obligations to implement the Accord. In that respect it would be desirable if France were to provide the Secretary-General, on an annual basis, with all information relating to the political, economic and social situation in New Caledonia and if, finally, France were to permit the United Nations to send a mission to New Caledonia in connection with the implementation of the Nouméa Accord in the middle of 1999. He was confident that in spite of the current difficulties, New Caledonia would confirm the Accord on the basis of the results of the referendum on its ratification.

36. At a meeting of the Fourth Committee, on 13 October, the representative of France stated that the Nouméa Accord provided for taking Kanak identity more fully into account in the political and social organization of New Caledonia and for a sharing of sovereignty, which will translate progressively into significant transfers of power. The Accord also contained provisions relating to international and, in particular, regional affairs. Access to full sovereignty will be the topic of an electoral referendum after 15 to 20 years.

37. He added that the Accord contained provisions concerning the United Nations. In particular, France was making every effort, on its own initiative and in accordance with Article 2, paragraph 7, of the Charter of the United Nations, to disseminate as much information as possible on New Caledonia.

38. Lastly, he indicated that the constitutional law on New Caledonia had been approved on 6 July at a meeting of the French National Assembly and Senate. This amendment to the French Constitution would permit the approval of the Nouméa Accord.

39. At the same meeting, the Committee adopted without a vote the draft resolution on New Caledonia contained in document A/53/23 (part V).²

C. General Assembly

40. At its 78th plenary meeting, on 3 December 1998, the General Assembly adopted without a vote resolution 53/65, entitled "Question of New Caledonia".

41. In that resolution the General Assembly welcomed the developments in the Territory, exemplified by the Nouméa Accord, invited all the parties to continue promoting a framework for the peaceful progress of the Territory towards an act of self-determination in which all options are open and

which would safeguard the rights of all New Caledonians based on the principle that it is for the populations of New Caledonia to choose how to control their destiny, and decided to keep the process under continuous review.

Notes

¹ The information contained in this paper has been derived from information transmitted to the Secretariat by the Government of France.

² To be issued as *Official Records of the General Assembly, Fifty-third Session, Supplement No. 23 (A/53/23)*.